IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.295 of 2005

Mr.Mangilal G. Biyani. ...Petitioner

vs.

JSB Securities Limited. ...Respondent.

Mr.P.K.Samdhani with Chetan Kapadia, S.Y.Purohit i/b. A.W.Mukri, for the Petitioner.

Mr.Sham Diwan i/b. Udwadia & Udeshi, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 4th April, 2006.

P.C.:-

1. By consent the impugned award dated 8th February,2005 is set aside.

2. The disputes and differences between the petitioner and the respondent are referred to Hon'ble Mr.Justice S.N.Variava (Retired Judge of the Supreme Court). The learned Arbitrator is requested to dispose of the Reference as expeditiously as possible.

3. All the contentions of the petitioner and the respondent with respect to the claims and counter claims are expressly kept open

save and except that the petitioner agree that he will not raise a plea of jurisdiction in respect of the claim of the respondent of Rs.58,05,633/-, shall however be entitled to dispute the correctness of the said claim and press for his counter claims which would be decided on merits.

4. The parties are agreed that the learned Arbitrator is not required to decide any issue as preliminary issue as to the jurisdiction of the learned Arbitrator. All the issues including the issue of jurisdiction that may be raised by the parties can be decided by the learned Arbitrator while making the Award on merits.

5. The Bombay Stock Exchange is directed to forward all the records and proceedings in Reference no.275 of 1996 to the learned Arbitrator nominated herein.

6. The parties agree that they will use the same records and proceedings as in the records of Reference No.275 of 1996 (including the papers and proceedings filed before the learned Umpire.)

7. The fees of the Arbitrator shall be borne equally by the Petitioner and the Respondent, which will, however, be subject to the ultimate award that may be made by the learned Arbitrator.

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